



14533 (2) 17432

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J. GENE W. FOWINKLE, M.D., M.P.H.  
COMMISSIONER

STATE OF TENNESSEE  
DEPARTMENT OF PUBLIC HEALTH  
NASHVILLE 37219



August 31, 1982

Robert and Carol Pearcy  
Route 1, Rebel Road  
Smyrna, TN 37167

Re: Citizens Complaint Concerning John P. Saad and Sons, Inc.

Dear Mr. and Ms. Pearcy:

My office received your complaint concerning John P. Saad, Inc., on May 18, 1982. In your complaint, you generally expressed the belief that the Saads had violated and continue to violate the Tennessee Water Quality Control Act and that the Tennessee Department of Public Health had not fully pursued the case against them. On June 7, 1982, Assistant Commissioner Michael T. Bruner acknowledged receipt of your complaint and interpreted your complaint as being citizen complaints pursuant to the Water Quality Act, the Solid Waste Act and the Hazardous Waste Management Act. This response will serve as my response required by all three of those acts.

Since receiving your letter, the staff of this Department's Divisions of Water Quality Control and Solid Waste Management have conducted an investigation into your complaint. That investigation encompassed a review of the Department's records, communications with various industries, visits to the Saad's property and the taking and analyses of samples of materials found on that property. The results of our investigation are set out below.

On March 22, 1979, the State of Tennessee filed a lawsuit against John P. Saad and Sons, Inc., in Davidson County Chancery Court to stop the Saads from disposing of waste materials in Davidson County and Rutherford County and to require the Saads to clean up their disposal sites located on Silver Springs Road in Rutherford County and on Trousdale Drive in Davidson County. Furthermore, on March 31, 1980, I sent two letters to State Attorney General William Leech authorizing the District Attorneys General in Davidson and Rutherford Counties to pursue criminal actions against the Saads in their respective counties. Subsequent to the filing of the civil lawsuit, the parties agreed that the Saads would clean up their sites in Rutherford and Davidson Counties. For the most part, these clean-ups have been performed. Thus, enforcement action has been taken by the Department for those events which occurred prior to 1980.

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You have complained that the Saads have been allowed to continue to operate even though they have been found to be in violation of agreed court orders. Our investigation shows that the Saads have substantially complied with the court order and that their current activities do not endanger the public health.

You further complain that "[a]lthough John Saad has not applied for any permits he has regularly picked up industrial waste (this includes highly toxic chlorinated hydrocarbons) and disposed of it improperly and illegally." This Department has investigated this aspect of your complaint and has been unable to confirm it. We have found that certain containers on the Saads' Trousdale property contain what appears to be waste oil. Based upon the evidence at our disposal, we cannot say that the material on the Saads' site comes under the jurisdiction of the Hazardous Waste Management Act. Furthermore, since the Saads apparently are only storing material on their site, their actions do not appear to be violations of the Solid Waste Disposal Act or the Water Quality Control Act. In short, we have no evidence that the Saads are illegally or improperly disposing of waste materials.

I appreciate your concerns for the environment; however, the Department does not propose to take further enforcement actions against the Saads at this time. As always, the Department will monitor the situation and may decide on some type of future action if and when the circumstances dictate. If you or any other person has evidence of new violations that occurred after those addressed in the previous proceedings, I would appreciate receiving that information.

Sincerely yours,



EUGENE W. FOWINKLE, M.D.  
Commissioner

EW F/jeb Com-27

cc: John Saad